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7

8 BEFORE THE  
DIVISION OF MEDICAL QUALITY  
9 MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation )  
Against: )

No. D-4502

12 JAMES H. DAVIS, M.D. )  
13 1447 North Harrison )  
Saginaw, MI 48602 )  
14 California Physician and Surgeon )  
Certificate No. C25095 )

DEFAULT DECISION

15 Respondent. )  
16 )

17  
18 On or about April 23, 1991, the respondent was served  
19 with an Accusation in case number D-4502, a Statement to  
20 Respondent, Notice of Defense in blank, and copies of relevant  
21 sections of the California Administrative Procedure Act, as  
22 required by sections 11503 and 11505 of the Government Code.  
23 Service was accomplished by certified mail directed to the last  
24 address for respondent on file with the Medical Board of  
25 California.

26 Respondent James H. Davis, M.D., failed to file a  
27 Notice of Defense within the fifteen days allowed by section

1 11506 of the Government Code. As a result, the default of  
2 respondent was entered. Respondent has thereby waived his right  
3 to a hearing to contest the Accusation and the Division of  
4 Medical Quality now proceeds without hearing to take action based  
5 upon the Accusation, declarations and documentary evidence on  
6 file in accordance with Government Code sections 11505,  
7 subdivision (a), and 11520.

8 FINDINGS OF FACT

9 The allegations of the Accusation, a true and correct  
10 copy of which is attached and incorporated by reference herein,  
11 are found to be true.

12 DETERMINATION OF ISSUES

13 Pursuant to the foregoing Findings of Fact, respondent  
14 has committed acts constituting unprofessional conduct in  
15 violation of Business and Professions Code sections 2234 and  
16 2305.

17 DISCIPLINARY ORDER

18 WHEREFORE, the following order is made:

19 Physician's and surgeon's certificate number C-25095  
20 issued to James H. Davis, M.D., is revoked.

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Respondent shall not be deprived of making any further showing by way of mitigation; however, such showing must be made in writing to the Division of Medical Quality, Medical Board of California at 1426 Howe Avenue, Sacramento, California 95825, prior to the effective date of this decision.

This decision shall become effective on September 7,  
1991. It is so ordered August 8, 1991.

DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By \_\_\_\_\_

Theresa L. Chassey

THERESA CLAASSEN  
Secretary/Treasurer

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14 In the Matter of the Accusation )  
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NO. D-4502

15 JAMES H. DAVIS, M.D. )  
16 1447 North Harrison )  
Saginaw, MI 48602 )  
17 California Physician and Surgeon )  
Certificate No. C25095 )

ACCUSATION

18 Respondent. )  
19 )

20  
21 Kenneth J. Wagstaff, for causes for discipline,  
22 alleges:  
23

24 1. Complainant Kenneth J. Wagstaff makes and files  
25 this accusation in his official capacity as Executive Director of  
26 the Medical Board of California (hereinafter referred to as the  
27 "Board").

1           2. On May 23, 1963, the Medical Board of California  
2 issued physician and surgeon certificate number C25095 to  
3 James H. Davis, M.D. The certificate has been in a delinquent  
4 status since January 31, 1988, due to nonpayment of renewal fees.  
5

6           3. Under Business and Professions Code section 2234,  
7 the Division of Medical Quality may take action against any  
8 licensee who is charged with unprofessional conduct. Pursuant to  
9 Business and Professions Code section 2305, the revocation,  
10 suspension, or other discipline by another state of a license or  
11 certificate to practice medicine issued by that state, or the  
12 revocation, suspension or restriction of the authority to  
13 practice medicine by any agency of the federal government  
14 constitutes grounds for disciplinary action for unprofessional  
15 conduct against a licensee.

16           Under Business and Professions Code section 118(b), the  
17 expiration or cancellation of a license issued by the Medical  
18 Board shall not, during any period in which it may be renewed,  
19 restored, reissued, or reinstated, deprive the board of its  
20 authority to institute or continue a disciplinary action.

21           Under Business and Professions Code section 2428, a  
22 license issued by the Medical Board may be renewed, reissued,  
23 reinstated or restored at any time within five years.

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1           4. Respondent has subjected his certificate to  
2 discipline under Business and Professions Code section 2305 for  
3 unprofessional conduct in that on September 17, 1987, the State  
4 of Michigan Board of Medicine summarily suspended his license to  
5 practice medicine in that state and thereafter on February 18,  
6 1988, revoked his license. The disciplinary action by the State  
7 of Michigan Board of Medicine was based on the following alleged  
8 conduct:

9           a. On four separate occasions in 1985, while working  
10 as an anesthesiologist at Saginaw General Hospital in Saginaw,  
11 Michigan, and while the patients were still alert and lucid after  
12 being placed under anesthesia, respondent engaged in sexual  
13 misconduct by positioning patients' hands on his penis or groin  
14 and rubbing his penis or groin.

15           b. On March 7, 1987, in the Circuit Court for the  
16 County of Saginaw, State of Michigan, respondent was convicted by  
17 a jury of two counts of second degree criminal sexual conduct  
18 (injury to incapacitated victim).

19  
20           WHEREFORE, complainant prays that a hearing be held and  
21 that the Division of Medical Quality make its order:

22           1. Revoking or suspending certificate number C25095  
23 issued to James H. Davis, M.D.

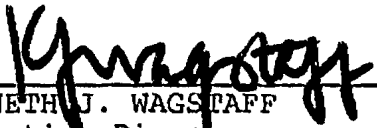
24           2. Prohibiting James H. Davis, M.D. from supervising a  
25 Physician's Assistant.

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1                   3. Taking such other and further action as may be  
2 deemed proper and appropriate.

3                   DATED April 23, 1991

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6                     
7                   KENNETH J. WAGSTAFF  
8                   Executive Director  
9                   Medical Board of California  
10                  Department of Consumer Affairs  
11                  State of California

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26                  Complainant

26                  03573160-  
27                  SA90AD2105  
                  (Donna Kringer)